

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

## CLARENCE MCNAIR,

Case No. 3:18-CV-00451-RCJ-CLB

Plaintiff,

## **ORDER OF DISMISSAL**

V.

DAVID VEST,

Defendant.

This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state prisoner. The Court found “the only defendant in this case, David Vest, has not been served. Defendant is no longer an employee of Nevada, and the Nevada Attorney General’s office has been unable to communicate with him for this case. The USMS has returned service unexecuted because Defendant no longer resides at the last known address.” (ECF No. 42 at 1).

The Court filed the Notice of Intent to Dismiss Pursuant to FRCP 4(m) (ECF No. 43) on October 21, 2020. Plaintiff was ordered to provide the Court with proof of service as to defendant **David Vest** on or before November 20, 2020. (ECF No. 43).

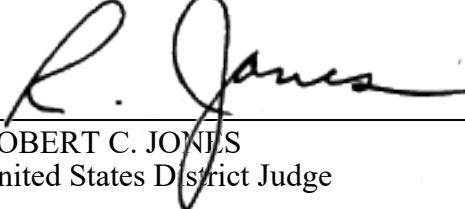
In determining whether to dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with local rules, the court must consider several factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives. *See Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

1        The Notice Regarding Intention to Dismiss Pursuant to Rule 4(m) of the Federal Rules of  
2 Civil Procedure (ECF No. 43) expressly stated “failure to comply with this notice may result in  
3 dismissal of the action without prejudice.”

4        **IT IS HEREBY ORDERED** that this action is **DISMISSED WITHOUT PREJUDICE**  
5 for Plaintiff’s failure to comply with the Court’s Order (ECF No. 43) pursuant to FRCP 4(m).

6        **IT IS FURTHER ORDERED** that the Clerk of the Court shall enter judgment accordingly  
7 and close the case.

8        **IT IS SO ORDERED**, this 5th day of March, 2021.

9  
10          
11        ROBERT C. JONES  
12        United States District Judge

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28